

AMENDED IN ASSEMBLY AUGUST 22, 2012

SENATE BILL

No. 1032

Introduced by Committee on Budget and Fiscal Review

February 6, 2012

An act relating to the Budget Act of 2012 to amend Sections 631 and 631.3 of the Code of Civil Procedure, and to amend Sections 607, 1719, 1719.5, 1769, and 1771 of the Welfare and Institutions Code, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 1032, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2012. Public safety.~~

Existing law requires each party demanding a jury trial to deposit advance jury fees in the amount of \$150 with the clerk or judge. Existing law requires the court to transmit the advance jury fees to the State Treasury for deposit in the Trial Court Trust Fund within 45 calendar days after the end of the month in which the advance jury fees are deposited with the court.

This bill would instead require that at least one party demanding a jury on each side of a civil case pay a nonrefundable fee of \$150, unless the fee has been paid by another party on the same side of the case. The bill would make that fee due on or before the date scheduled for the initial case management conference in the action, except in specified circumstances. The bill would make related and conforming changes to those provisions.

Existing law authorizes the juvenile court to retain jurisdiction over a ward of the court, until the ward attains 21 years of age, except in certain circumstances. Existing law further authorizes the court to

retain jurisdiction over a ward who has committed specified serious offenses or other offenses requiring registration as a sex offender, until age 25, if committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or to a state hospital or mental health facility. Existing law also requires, on and after July 1, 2012, every person committed by the juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by reason of committing specified offenses, to be discharged after a 2-year period of control, or when that person reaches 23 years of age, whichever occurs later, except as specified.

This bill would remove specified offenses requiring registration as a sex offender from those provisions that allow the court, in certain circumstances, to retain jurisdiction over a ward until that person attains either 25 years of age or 23 years of age. The bill would state that these changes apply retroactively.

Existing law authorizes the Department of Corrections and Rehabilitation to develop and implement a system of graduated sanctions for wards that distinguishes between minor, intermediate, and serious misconduct. Existing law further requires the department to promulgate regulations to implement a table of sanctions to be used in determining discharge consideration date extensions. Existing law also authorizes the department to extend a ward's discharge consideration date, subject to appeal, to not more than 12 months, for a sustained serious misconduct violation if all other sanctioning options have been considered and determined to be unsuitable in light of the previous case history and circumstances of the misconduct.

This bill would delete the above provision requiring the department to promulgate regulations to implement a table of sanctions, in certain circumstances. The bill would also revise the above provision regarding a ward's discharge to instead prohibit the department from extending a ward's discharge consideration date for incidents occurring after September 1, 2012.

The bill would appropriate \$1,000 from the General Fund to the Department of Corrections and Rehabilitation for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.*~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 631 of the Code of Civil Procedure is*
2 *amended to read:*

3 631. (a) The right to a trial by jury as declared by Section 16
4 of Article I of the California Constitution shall be preserved to the
5 parties inviolate. In civil cases, a jury may only be waived pursuant
6 to subdivision (f).

7 ~~(b) Each party demanding a jury trial shall deposit advance jury~~
8 ~~fees with the clerk or judge. The total amount of the advance jury~~
9 ~~fees shall be one hundred fifty dollars (\$150) for each party.~~

10 (b) *At least one party demanding a jury on each side of a civil*
11 *case shall pay a nonrefundable fee of one hundred fifty dollars*
12 *(\$150), unless the fee has been paid by another party on the same*
13 *side of the case. The fee shall offset the costs to the state of*
14 *providing juries in civil cases. If there are more than two parties*
15 *to the case, for purposes of this section only, all plaintiffs shall be*
16 *considered one side of the case, and all other parties shall be*
17 *considered the other side of the case. Payment of the fee by a party*
18 *on one side of the case shall not relieve parties on the other side*
19 *of the case from waiver pursuant to subdivision (f).*

20 ~~(c) The advance jury fee deposit shall be made fee described in~~
21 ~~subdivision (b) shall be due on or before the date scheduled for~~
22 ~~the initial case management conference in the action. If, except as~~
23 ~~follows:~~

24 (1) *In unlawful detainer actions, the fees shall be due at least*
25 *five days before the date set for trial.*

26 (2) *If no case management conference is scheduled in a civil*
27 *action, the advance jury deposit shall be made or the initial case*
28 *management conference occurred before June 28, 2012, and the*
29 *initial complaint was filed on or after July 1, 2011, the fee shall*
30 *be due no later than 365 calendar days after the filing of the initial*
31 *complaint. If*

32 (3) *If the initial case management conference occurred before*
33 *June 28, 2012, and the initial complaint in the case was filed before*
34 *July 1, 2011, the fee shall be due at least 25 calendar days before*
35 *the date initially set for trial.*

36 (4) *If the party requesting a jury has not appeared before the*
37 *initial case management conference, or has first appeared more*
38 *than 365 calendar days after the filing of the initial complaint, the*

~~deposit shall be made as provided in subdivision (d) fee shall be due at least 25 calendar days before the date initially set for trial.~~

~~(d) Except as otherwise provided If a party failed to timely pay the fee described in subdivision (e), the deposit (b) that was due between June 27, 2012, and November 30, 2012, the party will be relieved of advance jury fees shall be made at least a jury waiver on that basis only if the party pays the fee on or before December 31, 2012, or 25 calendar days before the date initially set for trial, except that in unlawful detainer actions the fees shall be deposited at least five days before the date set for trial whichever is earlier.~~

(e) The parties demanding a jury trial shall deposit with the clerk or judge, at the beginning of the second and each succeeding day's session, a sum equal to that day's fees and mileage of the jury, including the fees and mileage for the trial jury panel if the trial jury has not yet been selected and sworn. If more than one party has demanded a jury, the respective amount to be paid daily by each party demanding a jury shall be determined by stipulation of the parties or by order of the court.

(f) A party waives trial by jury in any of the following ways:

- (1) By failing to appear at the trial.
- (2) By written consent filed with the clerk or judge.
- (3) By oral consent, in open court, entered in the minutes.
- (4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.

~~(5) By failing to deposit with timely pay the clerk, or judge, advance jury fees as provided fee described in subdivision (e) or (d), as applicable (b), unless another party on the same side of the case has paid that fee.~~

(6) By failing to deposit with the clerk or judge, at the beginning of the second and each succeeding day's session, the sum provided in subdivision (e).

(g) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

(h) The court shall transmit the ~~advance jury fees~~ *fee described in subdivision (b)* to the State Treasury for deposit in the Trial Court Trust Fund within 45 calendar days after the end of the month in which the ~~advance jury fees are deposited with fee is paid~~ to the court.

1 ~~(i) Advance jury fees deposited after the effective date of the~~
2 ~~act that amended this section during the 2011–12 Regular Session~~
3 ~~shall be nonrefundable.~~

4 *SEC. 2. Section 631.3 of the Code of Civil Procedure is*
5 *amended to read:*

6 631.3. (a) Notwithstanding any other law, when a party to the
7 litigation has deposited jury fees with the judge or clerk and that
8 party waives a jury or obtains a continuance of the trial, or the case
9 is settled, none of the deposit shall be refunded if the court finds
10 there has been insufficient time to notify the jurors that the trial
11 would not proceed at the time set. If the jury fees so deposited are
12 not refunded for any of these reasons, or if a refund of jury fees
13 deposited with the judge or clerk has not been requested, in writing,
14 by the depositing party within 20 business days from the date on
15 which the jury is waived or the action is settled, dismissed, or a
16 continuance thereof granted, the fees shall be transmitted to the
17 Controller for deposit into the Trial Court Trust Fund.

18 (b) All jury fees and mileage fees that may accrue by reason of
19 a juror serving on more than one case in the same day shall be
20 transmitted to the Controller for deposit into the Trial Court Trust
21 Fund. All jury fees that were deposited with the court in advance
22 of trial pursuant to Section 631 prior to January 1, 1999, and that
23 remain on deposit in cases that were settled, dismissed, or otherwise
24 disposed of, and three years have passed since the date the case
25 was settled, dismissed, or otherwise disposed of, shall be
26 transmitted to the Controller for deposit into the Trial Court Trust
27 Fund.

28 ~~(c) Advance jury fees deposited after the effective date of the~~
29 ~~act that amended this section during the 2011–12 Regular Session~~
30 *The fee described in subdivision (b) of Section 631 shall be*
31 *nonrefundable and is not subject to this section.*

32 *SEC. 3. Section 607 of the Welfare and Institutions Code is*
33 *amended to read:*

34 607. (a) The court may retain jurisdiction over any person who
35 is found to be a ward or dependent child of the juvenile court until
36 the ward or dependent child attains 21 years of age, except as
37 provided in subdivisions (b), (c), and (d).

38 (b) The court may retain jurisdiction over any person who is
39 found to be a person described in Section 602 by reason of the
40 commission of any of the offenses listed in subdivision (b) or

1 paragraph (2) of subdivision (d) of Section 707, ~~or subdivision (e)~~
2 ~~of Section 290.008 of the Penal Code~~, until that person attains 25
3 years of age if the person was committed to the Department of
4 Corrections and Rehabilitation, Division of Juvenile Facilities.

5 (c) The court shall not discharge any person from its jurisdiction
6 who has been committed to the Department of Corrections and
7 Rehabilitation, Division of Juvenile Facilities so long as the person
8 remains under the jurisdiction of the Department of Corrections
9 and Rehabilitation, Division of Juvenile Facilities, including
10 periods of extended control ordered pursuant to Section 1800.

11 (d) The court may retain jurisdiction over any person described
12 in Section 602 by reason of the commission of any of the offenses
13 listed in subdivision (b) or paragraph (2) of subdivision (d) of
14 Section 707, ~~or subdivision (e) of Section 290.008 of the Penal~~
15 ~~Code~~, who has been confined in a state hospital or other appropriate
16 public or private mental health facility pursuant to Section 702.3
17 until that person attains 25 years of age, unless the court that
18 committed the person finds, after notice and hearing, that the
19 person's sanity has been restored.

20 (e) The court may retain jurisdiction over any person while that
21 person is the subject of a warrant for arrest issued pursuant to
22 Section 663.

23 (f) Notwithstanding subdivisions (b) and (d), on and after July
24 1, 2012, every person committed by the juvenile court to the
25 Department of Corrections and Rehabilitation, Division of Juvenile
26 Facilities, who is found to be a person described in Section 602
27 by reason of the violation of any of the offenses listed in
28 subdivision (b) or paragraph (2) of subdivision (d) of Section 707;
29 ~~or subdivision (e) of Section 290.008 of the Penal Code~~, shall be
30 discharged upon the expiration of a two-year period of control, or
31 when the person attains 23 years of age, whichever occurs later,
32 unless an order for further detention has been made by the
33 committing court pursuant to Article 6 (commencing with Section
34 1800) of Chapter 1 of Division 2.5. This section shall not apply to
35 persons committed to the Department of Corrections and
36 Rehabilitation, Division of Juvenile Facilities, or persons confined
37 in a state hospital or other appropriate public or private mental
38 health facility, by a court prior to July 1, 2012, pursuant to
39 subdivisions (b) and (d).

1 (g) *The amendments to this section made by the act adding this*
2 *subdivision shall apply retroactively.*

3 SEC. 4. *Section 1719 of the Welfare and Institutions Code, as*
4 *amended by Section 94 of Chapter 41 of the Statutes of 2012, is*
5 *amended to read:*

6 1719. (a) This section applies only to a ward who is released
7 to parole supervision prior to the 90th day after the enactment of
8 the act adding this subdivision.

9 (b) Commencing July 1, 2005, the following powers and duties
10 shall be exercised and performed by the Juvenile Parole Board:
11 discharges of commitment, orders to parole and conditions thereof,
12 revocation or suspension of parole, and disciplinary appeals.

13 (c) Any ward may appeal an adjustment to his or her parole
14 consideration date to a panel comprised of at least two
15 commissioners.

16 (d) The following powers and duties shall be exercised and
17 performed by the Division of Juvenile Facilities: return of persons
18 to the court of commitment for redispotion by the court,
19 determination of offense category, setting of parole consideration
20 dates, conducting annual reviews, treatment program orders,
21 institution placements, furlough placements, return of nonresident
22 persons to the jurisdiction of the state of legal residence,
23 disciplinary decisionmaking, and referrals pursuant to Section
24 1800.

25 (e) The department shall promulgate policies and regulations
26 implementing a departmentwide system of graduated sanctions
27 for addressing ward disciplinary matters. The disciplinary
28 decisionmaking system shall be employed as the disciplinary
29 system in facilities under the jurisdiction of the Division of Juvenile
30 Facilities, and shall provide a framework for handling disciplinary
31 matters in a manner that is consistent, timely, proportionate, and
32 ensures the due process rights of wards. The department shall
33 develop and implement a system of graduated sanctions that
34 distinguishes between minor, intermediate, and serious misconduct.
35 The department may not extend a ward's discharge consideration
36 date. ~~The department shall promulgate regulations to implement~~
37 ~~a table of sanctions to be used in determining discharge~~
38 ~~consideration date extensions.~~ The department also may promulgate
39 regulations to establish a process for granting wards who have

1 successfully responded to disciplinary sanctions a reduction of up
2 to 50 percent of any time acquired for disciplinary matters.

3 (f) This section shall remain in effect only until January 1, 2013,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2013, deletes or extends that date.

6 *SEC. 5. Section 1719 of the Welfare and Institutions Code, as*
7 *amended by Section 95 of Chapter 41 of the Statutes of 2012, is*
8 *amended to read:*

9 1719. (a) The following powers and duties shall be exercised
10 and performed by the Juvenile Parole Board: discharges of
11 commitment, orders for discharge from the jurisdiction of the
12 Division of Juvenile Facilities to the jurisdiction of the committing
13 court, and disciplinary appeals.

14 (b) Any ward may appeal a decision by the Juvenile Parole
15 Board to deny discharge to a panel comprised of at least two
16 commissioners.

17 (c) The following powers and duties shall be exercised and
18 performed by the Division of Juvenile Facilities: return of persons
19 to the court of commitment for redispotion by the court or a
20 reentry disposition, determination of offense category, setting of
21 discharge consideration dates, conducting annual reviews, treatment
22 program orders, institution placements, furlough placements, return
23 of nonresident persons to the jurisdiction of the state of legal
24 residence, disciplinary decisionmaking, and referrals pursuant to
25 Section 1800.

26 (d) The department shall promulgate policies and regulations
27 implementing a departmentwide system of graduated sanctions
28 for addressing ward disciplinary matters. The disciplinary
29 decisionmaking system shall be employed as the disciplinary
30 system in facilities under the jurisdiction of the Division of Juvenile
31 Facilities, and shall provide a framework for handling disciplinary
32 matters in a manner that is consistent, timely, proportionate, and
33 ensures the due process rights of wards. The department shall
34 develop and implement a system of graduated sanctions that
35 distinguishes between minor, intermediate, and serious misconduct.
36 The department may not extend a ward's discharge consideration
37 date. ~~The department shall promulgate regulations to implement~~
38 ~~a table of sanctions to be used in determining discharge~~
39 ~~consideration date extensions.~~ The department also may promulgate
40 regulations to establish a process for granting wards who have

1 successfully responded to disciplinary sanctions a reduction of any
2 time acquired for disciplinary matters.

3 (e) This section shall become operative on January 1, 2013.

4 *SEC. 6. Section 1719.5 of the Welfare and Institutions Code*
5 *is amended to read:*

6 1719.5. (a) This section shall become operative on the 90th
7 day after the enactment of the act adding this section.

8 (b) The following powers and duties shall be exercised and
9 performed by the Juvenile Parole Board: discharges of
10 commitment, orders for discharge from the jurisdiction of the
11 Division of Juvenile Facilities to the jurisdiction of the committing
12 court, revocation or suspension of parole, and disciplinary appeals.

13 (c) Any ward may appeal a decision by the Juvenile Parole
14 Board to deny discharge to a panel comprised of at least two
15 commissioners.

16 (d) The following powers and duties shall be exercised and
17 performed by the Division of Juvenile Facilities: return of persons
18 to the court of commitment for redispotion by the court or a
19 reentry disposition, determination of offense category, setting of
20 discharge consideration dates, conducting annual reviews, treatment
21 program orders, institution placements, furlough placements, return
22 of nonresident persons to the jurisdiction of the state of legal
23 residence, disciplinary decisionmaking, and referrals pursuant to
24 Section 1800.

25 (e) The department shall promulgate policies and regulations
26 implementing a departmentwide system of graduated sanctions
27 for addressing ward disciplinary matters. The disciplinary
28 decisionmaking system shall be employed as the disciplinary
29 system in facilities under the jurisdiction of the Division of Juvenile
30 Facilities, and shall provide a framework for handling disciplinary
31 matters in a manner that is consistent, timely, proportionate, and
32 ensures the due process rights of wards. The department shall
33 develop and implement a system of graduated sanctions that
34 distinguishes between minor, intermediate, and serious misconduct.
35 The department may *not* extend a ward's discharge consideration
36 date, ~~subject to appeal pursuant to subdivision (c), from one to not~~
37 ~~more than 12 months, inclusive, for a sustained serious misconduct~~
38 ~~violation if all other sanctioning options have been considered and~~
39 ~~determined to be unsuitable in light of the ward's previous case~~
40 ~~history and the circumstances of the misconduct for incidents~~

1 occurring after September 1, 2012. In any case in which a
2 discharge consideration date has been extended, the disposition
3 report shall clearly state the reasons for the extension. The length
4 of any discharge consideration date extension shall be based on
5 the seriousness of the misconduct, the ward's prior disciplinary
6 history, the ward's progress toward treatment objectives, the ward's
7 earned program credits, and any extenuating or mitigating
8 circumstances. The department shall promulgate regulations to
9 implement a table of sanctions to be used in determining discharge
10 consideration date extensions. The department also may promulgate
11 regulations to establish a process for granting wards who have
12 successfully responded to disciplinary sanctions a reduction of up
13 to 50 percent of any time acquired for disciplinary matters.

14 (f) This section applies only to a ward who is discharged from
15 state jurisdiction to the jurisdiction of the committing court on or
16 after the operative date of this section.

17 (g) This section shall remain in effect only until January 1, 2013,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2013, deletes or extends that date.

20 *SEC. 7. Section 1769 of the Welfare and Institutions Code is*
21 *amended to read:*

22 1769. (a) Every person committed to the Department of
23 Corrections and Rehabilitation, Division of Juvenile Facilities, by
24 a juvenile court shall, except as provided in subdivision (b), be
25 discharged upon the expiration of a two-year period of control or
26 when he or she attains 21 years of age, whichever occurs later,
27 unless an order for further detention has been made by the
28 committing court pursuant to Article 6 (commencing with Section
29 1800).

30 (b) Every person committed to the Department of Corrections
31 and Rehabilitation, Division of Juvenile Facilities, by a juvenile
32 court who has been found to be a person described in Section 602
33 by reason of the violation of any of the offenses listed in
34 subdivision (b) or paragraph (2) of subdivision (d) of Section 707;
35 ~~or subdivision (e) of Section 290.008 of the Penal Code;~~ shall be
36 discharged upon the expiration of a two-year period of control or
37 when he or she attains 25 years of age, whichever occurs later,
38 unless an order for further detention has been made by the
39 committing court pursuant to Article 6 (commencing with Section
40 1800).

(c) Notwithstanding subdivision (b), on and after July 1, 2012, every person committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, ~~or subdivision (e) of Section 290.008 of the Penal Code~~, shall be discharged upon the expiration of a two-year period of control, or when he or she attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800). This section shall not apply to persons committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, by a juvenile court prior to July 1, 2012, pursuant to subdivision (b).

(d) The amendments to this section made by the act adding this subdivision shall apply retroactively.

SEC. 8. Section 1771 of the Welfare and Institutions Code is amended to read:

1771. (a) Every person convicted of a felony and committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall be discharged when he or she attains 25 years of age, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) or unless a petition is filed under Article 5 (commencing with Section 1780). In the event that a petition under Article 5 (commencing with Section 1780) is filed, the division shall retain control until the final disposition of the proceeding under Article 5 (commencing with Section 1780).

(b) Notwithstanding subdivision (a), on and after July 1, 2012, every person committed by a juvenile court to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is found to be a person described in Section 602 by reason of the violation of any of the offenses listed in subdivision (b) or paragraph (2) of subdivision (d) of Section 707, ~~or subdivision (e) of Section 290.008 of the Penal Code~~, shall be discharged upon the expiration of a two-year period of control, or when the person attains 23 years of age, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800). This section shall not apply to persons committed to the Department of Corrections

1 and Rehabilitation, Division of Juvenile Facilities, by a juvenile
2 court prior to July 1, 2012, pursuant to subdivision (a).

3 *(c) The amendments to this section made by the act adding this*
4 *subdivision shall apply retroactively.*

5 *SEC. 9. The sum of one thousand dollars (\$1,000) is hereby*
6 *appropriated from the General Fund to the Department of*
7 *Corrections and Rehabilitation for administration.*

8 *SEC. 10. This act is a bill providing for appropriations related*
9 *to the Budget Bill within the meaning of subdivision (e) of Section*
10 *12 of Article IV of the California Constitution, has been identified*
11 *as related to the budget in the Budget Bill, and shall take effect*
12 *immediately.*

13 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
14 ~~changes relating to the Budget Act of 2012.~~